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SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA

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JEANNE HICKS, CLERK  
Cory Anna Kelbaugh ✓

BY: \_\_\_\_\_

11 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

12 IN AND FOR THE COUNTY OF YAVAPAI

13 STATE OF ARIZONA,

14 Plaintiff,

15 vs.

16 STEVEN CARROLL DEMOCKER,

17 Defendant.

) No. P1300CR20081339

) Div. 6

) **DEFENDANT'S RESPONSE TO**  
) **STATE'S MOTION IN LIMINE**  
) **RE: PRECLUSION OF**  
) **CHARACTER EVIDENCE OF**  
) **JAMES R. KNAPP**

) (Oral Argument Requested)

19  
20 Defendant Steven C. DeMocker, by and through counsel, hereby responds to the  
21 State's Motion In Limine Re: Preclusion of Character Evidence of James R. Knapp.

22 **BACKGROUND**

23 The State long ago dismissed the idea of mr. Knapp as a possible suspect  
24 in this case, for, the defense believes, the wrong reasons. Mr. Knapp made repeated  
25 misstatements to the Yavapai County Sheriff's Office that were relied on and repeated  
26 by the Sheriff's office to others during the course of the investigation. He was provided  
27 with internal information from the Sheriff's Office regarding the investigation, he  
28 emailed and made statements to others about the inside information he had been

1 provided by the Sheriff's Department about the investigation, he had uncontrolled and  
2 unmonitored access to the crime scene before it was fully processed, he was first on the  
3 scene, he made several conflicting, nonsensical and inconsistent statements, and he is  
4 believed to have exaggerated his medical condition to the victim and others. Mr.  
5 Knapp lived just yards from the room where the body was discovered, and the true  
6 circumstances of his alibi are in serious dispute. Mr. Knapp had a personal addiction to  
7 prescription medication, and was later found shot to death under extremely suspicious  
8 circumstances. Insofar as the defense is concerned, he remain a potential suspect and  
9 the investigation continues.

### 10 ARGUMENT

11 The State cites as the sole authority in support of this motion Rule 608, Arizona  
12 Rules of Evidence, which reads:

#### 13 **Rule 608. Evidence of character and conduct of witness.**

##### 14 (a) Opinion and reputation evidence of character.

15 The credibility of a witness may be attacked or supported by  
16 evidence in the form of opinion or reputation, but subject  
17 to these limitations: (1) the evidence may refer only to  
18 character for truthfulness or untruthfulness, and  
19 (2) evidence of truthful character is admissible only after  
20 the character of the witness for truthfulness has been  
attacked by opinion or reputation evidence or otherwise.

##### 21 (b) Specific instances of conduct.

22 Specific instances of the conduct of a witness, for the purpose of  
23 attacking or supporting the witness' credibility, other than  
24 conviction of crime as provided in Rule 609, may not be  
25 proved by extrinsic evidence. They may, however, in the  
26 discretion of the court, if probative of truthfulness or  
27 untruthfulness, be inquired into on cross-examination of the  
witness (1) concerning the witness' character for  
truthfulness or untruthfulness, or (2) concerning the  
character for truthfulness or untruthfulness of another

1 witness as to which character the witness being  
2 cross-examined has testified.

3 The giving of testimony, whether by an accused or by any  
4 other witness, does not operate as a waiver of the accused's  
5 or the witness' privilege against self-incrimination when  
6 examined with respect to matters which relate only to  
7 credibility. (Amended Oct. 19, 1988, effective Nov. 1, 1988.)

8 Put simply, Mr. Knapp cannot (of course) be a witness in this case, and therefore  
9 Rule 608 has, on its face, no application here. The State cites no other authority to  
10 support its motion, and it must be denied.

11 CONCLUSION

12 For these reasons, and any evidence adduced at the hearing on this matter, Mr.  
13 DeMocker requests that this Court deny the State's motion.

14 DATED this 24<sup>th</sup> day of February, 2010.

15 By: 

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25 ORIGINAL of the foregoing filed  
26 this 24<sup>th</sup> day of February, 2010, with:

27 Jeanne Hicks,  
28 Clerk of the Court  
Yavapai County Superior Court  
120 S. Cortez  
Prescott, AZ 86303

1 COPIES of the foregoing hand delivered  
2 this 24<sup>th</sup> day of February, 2010, to:

3 The Hon. Thomas B. Lindberg  
4 Judge of the Superior Court  
5 Division Six  
6 120 S. Cortez  
7 Prescott, AZ 86303

8 Joseph C. Butner, Esq.  
9 Office of the Yavapai County Attorney  
10 Prescott courthouse basket  
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